Martha S. Hogerty
Public Counsel

State of Missouri

Mel Carnahan
Governor

Office of the Public Counsel
Harry S Truman Building - Ste. 250
P.O. Box 7800
Jefferson City, Missouri 65102

Telephone: 573-751-4857
Facsimile: 573-751-5562
Relay Missouri
1-800-735-2966 TDD
1-800-735-2466 Voice

June 20, 1997

The Honorable John D. Dingell, Ranking Member
Commerce Committee Democratic Offic
564 Ford House Office Building
U.S. House of Representatives
Washington, DC 20515

Dear Representative Dingell:

I appreciate the opportunity to share my views on the important issues you raise in your letter of April 10, 1997. I apologize for this late reply and trust that you will still find this information useful. If you would like clarification of any of these answers, or if I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

Martha S. Hogerty
Public Counsel

1. While I have no hard evidence to quantify the effect of competition, it is my belief that the existence of the competitive wholesale market has helped to keep prices to end users down.

2. There have to date been no formal proceedings in Missouri on retail competition (although the State Legislature has just created a study committee and the Public Service Commission has just opened an investigative docket), so I have not taken a position on whether any type of federal legislation is needed. However, my position would be that a federal mandate for retail competition by a date certain is unwise because of the unique circumstances in each state. I believe there are differences among the various state consumer advocates, and that these differences are driven in part by the relative current cost of electricity. In general, advocates in states with relatively high costs are more likely to favor retail competition, while those in lower cost states are less likely to believe that benefits will accrue to their constituents.

3. a. I agree with the first premise, agree partially with the second, and disagree with the third. It is true that large industrial customers have been able to negotiate lower rates by entering into special contracts with utilities. It is also true that individual smaller customers lack the ability to negotiate such reductions. However, my office, and the Missouri Commission staff, have in recent years been able to negotiate rate reductions with, or win rate reductions in complaint cases from, most of the Missouri electric utilities. I do not see federal legislation as necessary to "level the playing field" between smaller and larger customers. In fact, I fear that it may do the reverse. There is a very real chance that larger customers will be able take advantage of competitive alternatives more quickly than residential customers, and leave residential customers buying electricity from the utility at rates that include so-called stranded cost recovery.

b. I do not believe that large industrial customers are generally being favored over smaller commercial and residential customers. This is not to say that specific contracts do not allow specific industrial customers to pay a lower contribution to fixed costs. The Missouri statutes give the Missouri Commission broad discretion to set rates, so long as those rates are just and reasonable and not unduly discriminatory. In general, in Missouri, we have tried to allocate costs among classes in accordance with the way those costs are incurred.

c. In recent cases, residential customers as well as large industrial customers have received rate reductions, so I have not opposed the reductions for the industrials.

d. Prices have been falling for the last five years or more, for a variety of reasons. All Missouri electric utilities have been reducing work force, most have been diligent about renegotiating coal contracts, most appear to be relying primarily on purchased power rather than plant construction for new capacity, and the cost of capital has generally been falling.

4. The two most difficult issues to resolve in connection with stranded costs are the calculation of these costs (stranded cost calculation is difficult due to uncertainty about future market prices and the need to balance unrecoverable costs with competitive advantages, such as goodwill, that utilities have gained from regulated operations) and the apportioning of these costs among the shareholders and the ratepayer classes. Missouri has not yet reached a point where stranded cost recovery has been considered. Since these costs have been incurred under a wide variety of state regulatory schemes, and with a varying amount of input or approval by state regulators, federal legislation can not provide for stranded cost recovery that will be fair in all fifty states.

Securitization would only be a useful tool if one knew with absolute certainty that a certain level of costs would be stranded. In addition, regulators must first decide whether ratepayers should bear no stranded costs, a portion of them, or all of them before considering the mechanics of how those costs should be born. Only after regulators have decided that ratepayers should pay for at least some stranded cost recovery, and have determined exactly what those costs are sure to be, should securitization be considered. Since it is virtually impossible to know the amount of stranded costs with certainty, there will likely never be a situation in which securitization is a useful tool.

5. Our positions on these issues are guided by the principle that a shift to direct access should not make any customer worse off than he would have been if regulation remained unchanged. Therefore, utility ratepayers should continue to benefit from low cost resources.

6. a. Such a provision is unnecessary, and could actually slow the growth of competition.

b. A federal reciprocity requirement would benefit utilities in those states that allow retail competition by keeping out utilities that do not face competition in their home states. Such a provision has certain "protectionism" aspects, and may benefit no one other than the utilities it protects. It could actually prevent customers from accessing as many competing providers as they otherwise would.

7. Federal legislation, depending on its specifics, may or may not affect the ability of the state to protect low-income consumers. In fact, unless it specifically preempts state action in this area, it is hard to see just how state efforts would be helped or harmed. Once retail competition comes about, there will be a greater likelihood of low-income consumers "falling through the cracks," and so, if federal legislation mandates competition, it should also mandate low-income protections.

8. Some transmission constraints currently exist and limit the ability of the system to handle the transactions, and more constraints will probably be revealed as long distance transactions increase. Of greater concern is whether the owners of the system will be able to use their ownership to benefit themselves and their affiliates in the transactions. It seems probable that they will, unless Congress mandates divestiture of transmission assets.

9. It is intuitive that aggregators will be able to more easily and cheaply aggregate load in areas of greater customer density. However, assuming the distribution system continues to be regulated as it is now (that is, on a "cost-averaged" basis within each class), there should be no significant differences in bargaining power.

10. Unbundling provides more information to the consumer about the cost of providing each component of service, and allows the customer to choose among providers of that component. More information and more choice can be advantages or disadvantages. In focus groups, residential customers seem to be split, with one group wanting the choice and the information, and the other simply wanting the most favorable bottom line.

Advantages may also accrue to incumbent utilities that provide unbundled services such as meter reading and billing unless these services are provided competitively.

11. a. PUHCA is not a significant impediment to competition.

b. Unless effective competition has firmly taken root, PUHCA should not be repealed, or modified in a way to lessen its protections. Even then, I would be concerned that, if PUHCA were repealed, the same type of anti-consumer, anti-competitive behavior that prompted the enactment of PUHCA in the first place could resurface and reduce competition.

c. Yes. The "regulation gap" created by Ohio Power is neither necessary nor desirable.